

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Werner Rümmer a/k/a Werner Kunkel,)	
)	
Petitioner,)	ORDER ON
)	REPORT AND RECOMMENDATION
vs.)	
)	
Tim Schuetzle,)	
North Dakota State Prison,)	Case No. 1:07-cv-079
)	
Respondent.)	

On November 6, 2007, the petitioner, Werner Rümmer, filed a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. Magistrate Judge Charles S. Miller, Jr. reviewed Rümmer's petition and the pleadings and submitted a Report and Recommendation. On November 30, 2007, Magistrate Judge Miller recommended that Rümmer's petition for a writ of habeas corpus be denied as untimely. Rümmer was given ten (10) days to file an objection to the Report and Recommendation. No objection was filed.

The Court has carefully reviewed the Report and Recommendation, relevant case law, and the entire record and finds the Report and Recommendation to be persuasive. Accordingly, the Court **ADOPTS** the Report and Recommendation (Docket No. 3) in its entirety and **DENIES** Rümmer's petition under 28 U.S.C. § 2254 for writ of habeas corpus by a person in state custody (Docket No. 1). The Court certifies that any appeal would be frivolous, could not be taken in good faith, and may not be taken in forma pauperis. The Court further certifies that Rümmer has failed to make a substantial showing of the denial of a constitutional right and will not grant a certificate of appealability.

IT IS SO ORDERED.

Dated this 20th day of December, 2007.

/s/ Daniel L. Hovland
Daniel L. Hovland, Chief Judge
United States District Court